AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY JUNE 15, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE MAY 15, 2013

AMENDED IN SENATE MAY 8, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL No. 43

Introduced by Senator Wolk
(Coauthors: Senators Corbett and Pavley)
(Coauthors: Assembly Members Levine, Skinner, and Williams)

December 11, 2012

An act to ~~amend Section 25100 of the Corporations Code, and to amend Sections 216, 218, and 365.1 of, and to~~ add and repeal Chapter 7.6 (commencing with Section 2831) of Part 2 of Division 1 of~~,~~ the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 43, as amended, Wolk. *Electricity: Green Tariff* Shared ~~Renewable Energy Self-Generation~~ *Renewables* Program.

(1) Under existing law, the Public Utilities Commission has regulatory jurisdiction over public utilities, including electrical corporations, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, the local government renewable energy self-generation program authorizes a

local government to receive a bill credit to be applied to a designated benefiting account for electricity exported to the electrical grid by an eligible renewable generating facility, as defined, and requires the commission to adopt a rate tariff for the benefiting account.

This bill would enact the *Green Tariff* Shared ~~Renewable Energy Self-Generation~~ *Renewables* Program. The program would ~~authorize a retail customer of an electrical corporation to acquire an interest, as defined, in a shared renewable energy facility, as defined, for the purpose of receiving a bill credit to offset all or a portion of the customer's electricity usage, consistent with specified requirements~~ *require a participating utility, defined as being an electrical corporation with 100,000 or more customers in California, to file with the commission an application requesting approval of a green tariff shared renewable program to implement a program enabling ratepayers to participate directly in offsite electrical generation facilities that use eligible renewable energy resources, consistent with certain legislative findings and statements of intent. The bill would require the commission, by July 1, 2014, to issue a decision concerning the participating utility's application, determining whether to approve or disapprove the application, with or without modifications. The bill would require the commission, after notice and opportunity for public comment, to approve the application if the commission determines that the proposed program is reasonable and consistent with the legislative findings and statements of intent. The bill would require the commission to require that a participating utility's green tariff shared renewable program be administered in accordance with specified provisions*. The bill would repeal the program on January 1, 2019.

~~The bill would provide that any corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in, a shared renewable energy facility is not a public utility or electrical corporation solely by reason of engaging in any of those activities.~~

(2) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of the bill would require action by the commission to implement its requirements, a violation of these provisions would impose a state-mandated local program by expanding the definition of a crime.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 7.6 (commencing with Section 2831) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 7.6. GREEN TARIFF SHARED RENEWABLES PROGRAM

2831. The Legislature finds and declares all of the following:

(a) Building operational generating facilities that utilize sources of renewable energy within California, to supply the state's demand for electricity, provides significant financial, health, environmental, and workforce benefits to the State of California.

(b) The California Solar Initiative will achieve its goals, resulting in over 150,000 residential and commercial onsite installations of solar energy systems. However, the California Solar Initiative cannot reach all residents and businesses that want to participate and is limited to only solar energy systems and not other eligible renewable energy resources. A green tariff shared renewables program seeks to build on the success of the California Solar Initiative by expanding access to all eligible renewable energy resources to all ratepayers who are currently unable to access the benefits of onsite generation.

(c) There is widespread interest from many large institutional customers, including schools, colleges, universities, local governments, businesses, and the military, for the development of generation facilities that are eligible renewable energy resources to serve more than 33 percent of their energy needs.

(d) Public institutions will benefit from a green tariff shared renewables program's enhanced flexibility to participate in shared generation facilities that are eligible renewable energy resources.

(e) Building operational generating facilities that are eligible renewable energy resources creates jobs, reduces emissions of greenhouse gases, and promotes energy independence.

(f) Many large energy users in California have pursued onsite electrical generation from eligible renewable energy resources, but cannot achieve their goals due to rooftop or land space limitations, or size limits on net energy metering. The enactment of this chapter will create a mechanism whereby institutional customers, such as military installations, universities, and local governments, as well as commercial customers and groups of individuals, can meet their needs with electrical generation from eligible renewable energy resources.

(g) It is the intent of the Legislature that a green tariff shared renewables program be implemented in such a manner that facilitates a large, sustainable market for offsite electrical generation from facilities that are eligible renewable energy resources, while fairly compensating electrical corporations for the services they provide, without affecting nonparticipating ratepayers.

(h) It is the further intent of the Legislature that a green tariff shared renewables program be implemented in a manner that ensures nonparticipating ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers.

2831.5. (a) This chapter shall be known, and may be cited, as the Green Tariff Shared Renewables Program.

(b) For purposes of this chapter, the following terms have the following meanings:

(1) "Eligible renewable energy resource," "renewable energy credit," and "renewables portfolio standard" have the same meaning as those terms have for the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

(2) "Participating utility" means an electrical corporation with 100,000 or more customer accounts in California.

2832. (a) On or before March 1, 2014, a participating utility shall file with the commission an application requesting approval of a green tariff shared renewables program to implement a program that the utility determines is consistent with the legislative findings and statements of intent of Section 2831. Nothing in this

chapter limits an electrical corporation with less than 100,000 customer accounts in California from filing an application with the commission to administer a green tariff shared renewables program that is consistent with the legislative findings and statements of intent of Section 2831.

(b) On or before July 1, 2014, the commission shall issue a decision on the participating utility's application for a green tariff shared renewables program, determining whether to approve or disapprove it, with or without modifications.

(c) After notice and an opportunity for public comment, the commission shall approve an application by a participating utility for a green tariff shared renewables program if the commission determines that the program is reasonable and consistent with the legislative findings and statements of intent of Section 2831.

(d) The requirements of this chapter shall not apply to an electrical corporation that, prior to May 1, 2013, filed an application with the commission to have a green tariff shared renewables program, or an equivalent program of whatever name, provided the commission approves the application with a determination that the program does not shift costs to nonparticipating customers and the application is consistent with this chapter. If the commission has approved a settlement agreement relative to parties contesting an application filed prior to May 1, 2013, the requirements of this section shall not apply if the commission, within a reasonable period of time, requires revisions to the previously approved settlement agreement that requires the program to be consistent with this chapter.

2833. (a) The commission shall require a green tariff shared renewables program to be administered by a participating utility in accordance with this section.

(b) Generating facilities participating in a participating utility's green tariff shared renewables program shall be eligible renewable energy resources with a nameplate rated generating capacity not exceeding 20 megawatts, except for those generating facilities reserved for location in areas identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities pursuant to paragraph (1) of subdivision (d), which shall not exceed one megawatt nameplate rated generating capacity.

(c) A participating utility shall use existing commission-approved tools and mechanisms to procure additional eligible renewable energy resources for the green tariff shared renewables program from electrical generation facilities that are in addition to those required by the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1). For purposes of this subdivision, "existing commission-approved tools and mechanisms" means those procurement methods approved by the commission on or before December 31, 2013, for an electrical corporation to procure eligible renewable energy resources for purposes of meeting the procurement requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).

(d) A participating utility shall permit customers within the service territory of the utility to purchase electricity pursuant to the tariff approved by the commission to implement the utility's green tariff shared renewables program, until the utility meets its proportionate share of a statewide limitation of 600 megawatts of customer participation, measured by nameplate rated generating capacity. The proportionate share shall be calculated based on the ratio of each participating utility's retail sales to total retail sales of electricity by all participating utilities. The commission may place other restrictions on purchases under a green tariff shared renewables program, including restricting participation to a certain level of capacity each year. The following restrictions shall apply to the statewide 600 megawatt limitation:

(1) (A) One hundred megawatts shall be reserved for facilities that are no larger than one megawatt nameplate rated generating capacity and that are located in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities. These communities shall be identified by census tract, and shall be determined to be the most impacted 20 percent based on results from the best available cumulative impact screening methodology designed to identify each of the following:

(i) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.

(ii) Areas with socioeconomic vulnerability.

(B) Of the 100 megawatts reserved for eligible renewable energy resources that are located in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities, 20 percent shall be allocated to residential customers.

(C) For purposes of this paragraph, "previously identified" means identified prior to commencing construction of the facility.

(2) In addition to any residential allocation pursuant to subparagraph (B) of paragraph (1), not less than 100 megawatts shall be reserved for participation by residential class customers.

(3) Twenty megawatts shall be reserved for the City of Davis.

(e) To the extent possible, a participating utility shall seek to procure eligible renewable energy resources that are located in reasonable proximity to enrolled participants.

(f) A participating utility's green tariff shared renewables program shall support diverse procurement and the goals of commission General Order 156.

(g) A participating utility's green tariff shared renewables program shall not allow a customer to subscribe to more than 100 percent of the customer's electricity demand.

(h) Except as authorized by this subdivision, a participating utility's green tariff shared renewables program shall not allow a customer to subscribe to more than two megawatts of nameplate generating capacity. This limitation does not apply to a federal, state, or local government, school or school district, county office of education, the California Community Colleges, the California State University, or the University of California.

(i) A participating utility's green tariff shared renewables program shall not allow any single entity or its affiliates or subsidiaries to subscribe to more than 20 percent of any single calendar year's total cumulative rated generating capacity.

(j) To the extent possible, a participating utility shall actively market the utility's green tariff shared renewables program to low-income and minority communities and customers.

(k) Participating customers shall receive bill credits for the generation of a participating eligible renewable energy resource using the class average retail generation rate as established in the participating utility's approved tariff for the class to which the participating customer belongs, plus a renewables adjustment value representing the difference between the time-of-delivery

profile of the eligible renewable energy resource used to serve the participating customer and the class average time-of-delivery profile and the resource adequacy value, if any, of the resource contained in the utility's green tariff shared renewables program. The renewables adjustment value applicable to a time-of-delivery profile of an eligible renewable energy resource shall be determined according to rules adopted by the commission. For these purposes, "time-of-delivery profile" refers to the daily generating pattern of a participating eligible renewable energy resource over time, the value of which is determined by comparing the generating pattern of that participating eligible renewable energy resource to the demand for electricity over time and other generating resources available to serve that demand.

(l) Participating customers shall pay a renewable generation rate established by the commission, the administrative costs of the participating utility, and any other charges the commission determines are just and reasonable to fully cover the cost of procuring a green tariff shared renewables program's resources to serve a participating customer's needs.

(m) A participating customer's rates shall be debited or credited with any other commission-approved costs or values applicable to the eligible renewable energy resources contained in a participating utility's green tariff shared renewables program's portfolio. These additional costs or values shall be applied to new customers when they initially subscribe after the cost or value has been approved by the commission.

(n) Participating customers shall pay all otherwise applicable charges without modification.

(o) A participating utility shall provide support for enhanced community renewables programs to facilitate development of eligible renewable energy resource projects located close to the source of demand.

(p) The commission shall ensure that charges and credits associated with a participating utility's green tariff shared renewables program are set in a manner that ensures nonparticipant ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers and ensures that no costs are shifted from participating customers to nonparticipating ratepayers.

(q) A participating utility shall track and account for all revenues and costs to ensure that the utility recovers the actual costs of the utility's green tariff shared renewables program and that all costs and revenues are fully transparent and auditable.

(r) Any renewable energy credits associated with electricity procured by a participating utility for the utility's green tariff shared renewables program and utilized by a participating customer shall be retired by the participating utility on behalf of the participating customer. Those renewable energy credits shall not be further sold, transferred, or otherwise monetized for any purpose. Any renewable energy credits associated with electricity procured by a participating utility for the shared renewable energy self-generation program, but not utilized by a participating customer, shall be counted toward meeting that participating utility's renewables portfolio standard.

(s) A participating utility shall, in the event of participant customer attrition or other causes that reduce customer participation or electrical demand below generation levels, apply the excess generation from the eligible renewable energy resources procured through the utility's green tariff shared renewables program to the utility's renewable portfolio standard procurement obligations or bank the excess generation for future use to benefit all customers in accordance with the renewables portfolio standard banking and procurement rules approved by the commission.

(t) In calculating its procurement requirements to meet the requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1), a participating utility may exclude from total retail sales the kilowatthours generated by an eligible renewable energy resource that is credited to a participating customer pursuant to the utility's green tariff shared renewables program, commencing with the point in time at which the generating facility achieves commercial operation.

(u) All renewable energy resources procured on behalf of participating customers in the participating utility's green tariff shared renewables program shall comply with the State Air Resources Board's Voluntary Renewable Electricity Program. California-eligible greenhouse gas allowances associated with these purchases shall be retired on behalf of participating

customers as part of the board's Voluntary Renewable Electricity Program.

(v) A participating utility shall provide a municipality with aggregated consumption data for participating customers within the municipality's jurisdiction to allow for reporting on progress toward climate action goals by the municipality. A participating utility shall also publicly disclose, on a geographic basis, consumption data and reductions in emissions of greenhouse gases achieved by participating customers in the utility's green tariff shared renewables program, on an aggregated basis consistent with privacy protections as specified in Chapter 5 (commencing with Section 8380) of Division 4.1.

2834. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

~~SECTION 1. Section 25100 of the Corporations Code is amended to read:~~

~~25100. The following securities are exempted from Sections 25110, 25120, and 25130:~~

~~(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.~~

~~(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision or municipality of that province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is~~

~~recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.~~

~~(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.~~

~~(d) Any security issued or guaranteed by a federal savings association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Commissioner of Financial Institutions of this state.~~

~~(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.~~

~~(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to: (1) any investment contract sold or offered for sale with, or as part of, that interest, or (2) any person engaged in the business of selling, distributing, or supplying water for irrigation purposes or domestic use that is not a public utility except that the exemption is applicable to any security of a mutual water company (other than an investment contract as described in paragraph (1)) offered or sold in connection with subdivided lands pursuant to Chapter 2 (commencing with Section 14310) of Part 7 of Division 3 of Title 1.~~

~~(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding a license or certificate of authority then in force from the Commissioner of Financial Institutions of this state.~~

~~(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.~~

~~(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or its successor or (2) a holding company registered with the United States Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of that company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by that authority.~~

~~(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of that nonprofit organization or from remuneration received from that nonprofit organization.~~

~~(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to that issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or those other persons.~~

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of that paper which is likewise limited, or any guarantee of that paper or of that renewal, provided that the paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of those securities when the commissioner finds that the qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets those requirements shall be conclusive evidence that the plan is an employees' pension, profit-sharing, stock bonus or similar benefit plan within the meaning of the first sentence of this subdivision until the date the determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not the revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange, if the exchange has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to the security. The exemption afforded by this subdivision does not apply to securities listed or approved for listing upon notice of issuance on a national securities exchange, in a rollup transaction unless the rollup transaction is an eligible rollup transaction as defined in Section 25014.7.

That certification of any exchange shall be made by the commissioner upon the written request of the exchange if the commissioner finds that the exchange, in acting on applications

~~for listing of common stock, substantially applies the minimum standards set forth in either subparagraph (A) or (B) of paragraph (1), and, in considering suspension or removal from listing, substantially applies each of the criteria set forth in paragraph (2).~~

~~(1) Listing standards:~~

~~(A) (i) Shareholders' equity of at least four million dollars ($4,000,000).~~

~~(ii) Pretax income of at least seven hundred fifty thousand dollars ($750,000) in the issuer's last fiscal year or in two of its last three fiscal years.~~

~~(iii) Minimum public distribution of 500,000 shares (exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings), together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange may also consider the listing of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing under this trading provision, the exchange shall review the nature and frequency of that activity and any other factors as it may determine to be relevant in ascertaining whether the issue is suitable for trading. A security that trades infrequently shall not be considered for listing under this paragraph even though average daily volume amounts to 2,000 shares per day or more.~~

~~Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing unless the public distribution appreciably exceeds 500,000 shares.~~

~~(iv) Minimum price of three dollars ($3) per share for a reasonable period of time prior to the filing of a listing application; provided, however, in certain instances an exchange may favorably consider listing an issue selling for less than three dollars ($3) per share after considering all pertinent factors, including market conditions in general, whether historically the issue has sold above three dollars ($3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.~~

~~(v) An aggregate market value for publicly held shares of at least three million dollars ($3,000,000).~~

~~(B) (i) Shareholders' equity of at least four million dollars ($4,000,000).~~

~~(ii) Minimum public distribution set forth in clause (iii) of subparagraph (A) of paragraph (1).~~

~~(iii) Operating history of at least three years.~~

~~(iv) An aggregate market value for publicly held shares of at least fifteen million dollars ($15,000,000).~~

~~(2) Criteria for consideration of suspension or removal from listing:~~

~~(A) If a company that (i) has shareholders' equity of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (ii) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.~~

~~(B) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.~~

~~(C) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.~~

~~(D) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).~~

~~(E) If shares of common stock sell at a price of less than three dollars ($3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of the shares within a reasonable period of time after being requested by the exchange to take that action.~~

~~A national securities exchange, certified by rule or order of the commissioner under this subdivision, shall file annual reports when requested to do so by the commissioner. The annual reports shall contain, by issuer: the variances granted to an exchange's listing standards, including variances from corporate governance and voting rights' standards, for any security of that issuer; the reasons for the variances; a discussion of the review procedure instituted by the exchange to determine the effect of the variances on investors and whether the variances should be continued; and any other information that the commissioner deems relevant. The purpose of these reports is to assist the commissioner in~~

~~determining whether the quantitative and qualitative requirements of this subdivision are substantially being met by the exchange in general or with regard to any particular security.~~

~~The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) may, in his or her discretion, by rule or order, decertify any exchange previously certified that ceases substantially to apply the minimum standards or criteria as set forth in paragraphs (1) and (2).~~

~~A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange named in a rule or order of certification, and any warrant or right to purchase or subscribe to that security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying the exchange.~~

~~(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests in the same real property nor a note in which beneficial interests are sold to more than one person or entity.~~

~~(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, that qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against the members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.~~

~~(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may, in the commissioner's discretion, bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, a restraining order, or a writ of mandate shall be granted and a receiver or~~

~~conservator may be appointed for the defendant or the defendant's assets.~~

~~(2) The commissioner may, in the commissioner's discretion, (A) make public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7 of the Insurance Code, and (B) publish information concerning the violation of Section 1280.7 of the Insurance Code.~~

~~(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.~~

~~(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.~~

~~(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.~~

~~(6) The cost of any review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses including overhead reasonably incurred in the performance of the work.~~

~~The recoverable cost of each review, examination, audit, or investigation made by the commissioner under Section 1280.7 of the Insurance Code shall not exceed twenty-five thousand dollars ($25,000), except that costs exceeding twenty-five thousand dollars ($25,000) shall be recoverable if the costs are necessary to prevent a violation of any provision of Section 1280.7 of the Insurance Code.~~

~~(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of that corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of the corporation or from remuneration, other than reasonable salary, received from the corporation. This exemption does not apply to nonvoting shares or memberships of that corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation. This exemption also does not apply to shares or memberships issued by a nonprofit cooperative corporation organized to facilitate the creation of an unincorporated interindemnity arrangement that provides indemnification for medical malpractice to its physician and surgeon members as set forth in subdivision (q).~~

~~(s) Any security consisting of or representing an interest in a pool of mortgage loans that meets each of the following requirements:~~

~~(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and regulation of the Commissioner of Financial Institutions, and each of which at the time of transfer to the pool is an authorized investment for the originating or acquiring institution.~~

~~(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.~~

~~(3) The loans are serviced by a financial institution specified in paragraph (1).~~

~~(4) The security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.~~

~~(5) The security is offered pursuant to a registration under the federal Securities Act of 1933, or pursuant to an exemption under Regulation A under that act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.~~

~~(t) (1) Any security issued or guaranteed by and representing an interest in or a direct obligation of an industrial loan company incorporated under the laws of the state and authorized by the Commissioner of Financial Institutions to engage in industrial loan business.~~

~~(2) Any investment certificate in or issued by any industrial loan company that is organized under the laws of a state of the United States other than this state, that is insured by the Federal Deposit Insurance Corporation, and that maintains a branch office in this state.~~

~~(u) (1) Any right to a bill credit or interest of a participant in a shared renewable energy facility pursuant to Chapter 7.5~~

~~(commencing with Section 2830) of Part 2 of Division 1 of the Public Utilities Code.~~

~~(2) This subdivision shall become inoperative on January 1, 2019.~~

~~SEC. 2. Section 216 of the Public Utilities Code is amended to read:~~

~~216. (a) "Public utility" includes every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof.~~

~~(b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.~~

~~(c) When any person or corporation performs any service for, or delivers any commodity to, any person, private corporation, municipality, or other political subdivision of the state, that in turn either directly or indirectly, mediately or immediately, performs that service for, or delivers that commodity to, the public or any portion thereof, that person or corporation is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.~~

~~(d) Ownership or operation of a facility that employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology does not make a corporation or person a public utility within the meaning of this section solely because of the ownership or operation of that facility.~~

~~(e) Any corporation or person engaged directly or indirectly in developing, producing, transmitting, distributing, delivering, or~~

~~selling any form of heat derived from geothermal or solar resources or from cogeneration technology to any privately owned or publicly owned public utility, or to the public or any portion thereof, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.~~

~~(f) The ownership or operation of a facility that sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from that facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, operation, or sale.~~

~~(g) Ownership or operation of a facility that is an exempt wholesale generator, as defined in the Public Utility Holding Company Act of 2005 (42 U.S.C. Sec. 16451(6)), does not make a corporation or person a public utility within the meaning of this section, solely due to the ownership or operation of that facility.~~

~~(h) The ownership, control, operation, or management of an electric plant used for direct transactions or participation directly or indirectly in direct transactions, as permitted by subdivision (b) of Section 365, sales into a market established and operated by the Independent System Operator or any other wholesale electricity market, or the use or sale as permitted under subdivisions (b) to (d), inclusive, of Section 218, shall not make a corporation or person a public utility within the meaning of this section solely because of that ownership, participation, or sale.~~

~~(i) The ownership, control, operation, or management of a facility that supplies electricity to the public only for use to charge light duty plug-in electric vehicles does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, control, operation, or management. For purposes of this subdivision, "light duty plug-in electric vehicles" includes light duty battery electric and plug-in hybrid electric vehicles. This subdivision does not affect the commission's authority under Section 454 or 740.2 or any other applicable statute.~~

~~(j) (1) A corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in a shared renewable energy facility, pursuant to Chapter 7.5 (commencing with Section 2830) of Part 2, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.~~

~~(2) This subdivision shall become inoperative on January 1, 2019.~~

~~SEC. 3. Section 218 of the Public Utilities Code is amended to read:~~

~~218. (a) "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.~~

~~(b) "Electrical corporation" does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:~~

~~(1) Its own use or the use of its tenants.~~

~~(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property and one or more of the following applies:~~

~~(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.~~

~~(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.~~

~~(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.~~

~~(3) Sale or transmission to an electrical corporation or state or local public agency, but not for sale or transmission to others, unless the corporation or person is otherwise an electrical corporation.~~

~~(c) "Electrical corporation" does not include a corporation or person employing landfill gas technology for the generation of electricity for any one or more of the following purposes:~~

~~(1) Its own use or the use of not more than two of its tenants located on the real property on which the electricity is generated.~~

~~(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated.~~

~~(3) Sale or transmission to an electrical corporation or state or local public agency.~~

~~(d) "Electrical corporation" does not include a corporation or person employing digester gas technology for the generation of electricity for any one or more of the following purposes:~~

~~(1) Its own use or the use of not more than two of its tenants located on the real property on which the electricity is generated.~~

~~(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated.~~

~~(3) Sale or transmission to an electrical corporation or state or local public agency, if the sale or transmission of the electricity service to a retail customer is provided through the transmission system of the existing local publicly owned electric utility or electrical corporation of that retail customer.~~

~~(e) "Electrical corporation" does not include an independent solar energy producer, as defined in Article 3 (commencing with Section 2868) of Chapter 9 of Part 2.~~

~~(f) The amendments made to this section at the 1987 portion of the 1987–88 Regular Session of the Legislature do not apply to any corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity that physically produced electricity prior to January 1, 1989, and furnished that electricity to immediately adjacent real property for use thereon prior to January 1, 1989.~~

~~(g) (1) A corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in a shared renewable energy facility, pursuant to Chapter 7.5 (commencing with Section 2830) of Part 2, is not an electrical corporation within the meaning of this section solely by reason of engaging in any of those activities.~~

~~(2) This subdivision shall become inoperative on January 1, 2019.~~

~~SEC. 4. Section 365.1 of the Public Utilities Code is amended to read:~~

~~365.1. (a) (1) Except as expressly authorized by this section, and subject to the limitations in subdivisions (b) and (c), the right of retail end-use customers pursuant to this chapter to acquire service from other providers is suspended until the Legislature, by statute, lifts the suspension or otherwise authorizes direct transactions.~~

~~(2) For purposes of this section, "other provider" means any person, corporation, or other entity that is authorized to provide electric service within the service territory of an electrical corporation pursuant to this chapter, and includes an aggregator, broker, or marketer, as defined in Section 331, and an electric service provider, as defined in Section 218.3.~~

~~(3) "Other provider" does not include a community choice aggregator, as defined in Section 331.1, and the limitations in this section do not apply to the sale of electricity by "other providers" to a community choice aggregator for resale to community choice aggregation electricity consumers pursuant to Section 366.2.~~

~~(4) (A) "Other provider" does not include a "provider" as defined in subdivision (j) of Section 2832 or any corporation or person engaged directly or indirectly in developing, owning, producing, delivering, participating in, or selling interests in a shared renewable energy facility, pursuant to Chapter 7.5 (commencing with Section 2830) of Part 2, solely by reason of engaging in any of those activities.~~

~~(B) This paragraph shall become inoperative on January 1, 2019.~~

~~(b) The commission shall allow individual retail nonresidential end-use customers to acquire electric service from other providers in each electrical corporation's distribution service territory, up to a maximum allowable total kilowatthours annual limit. The maximum allowable annual limit shall be established by the commission for each electrical corporation at the maximum total kilowatthours supplied by all other providers to distribution customers of that electrical corporation during any sequential 12-month period between April 1, 1998, and the effective date of this section. Within six months of the effective date of this section, or by July 1, 2010, whichever is sooner, the commission shall adopt and implement a reopening schedule that commences immediately and will phase in the allowable amount of increased~~

~~kilowatthours over a period of not less than three years, and not more than five years, raising the allowable limit of kilowatthours supplied by other providers in each electrical corporation's distribution service territory from the number of kilowatthours provided by other providers as of the effective date of this section, to the maximum allowable annual limit for that electrical corporation's distribution service territory. The commission shall review and, if appropriate, modify its currently effective rules governing direct transactions, but that review shall not delay the start of the phase-in schedule.~~

~~(c) Once the commission has authorized additional direct transactions pursuant to subdivision (b), it shall do both of the following:~~

~~(1) Ensure that other providers are subject to the same requirements that are applicable to the state's three largest electrical corporations under any programs or rules adopted by the commission to implement the resource adequacy provisions of Section 380, the renewables portfolio standard provisions of Article 16 (commencing with Section 399.11), and the requirements for the electricity sector adopted by the State Air Resources Board pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code). This requirement applies notwithstanding any prior decision of the commission to the contrary.~~

~~(2) (A) Ensure that, in the event that the commission authorizes, in the situation of a contract with a third party, or orders, in the situation of utility-owned generation, an electrical corporation to obtain generation resources that the commission determines are needed to meet system or local area reliability needs for the benefit of all customers in the electrical corporation's distribution service territory, the net capacity costs of those generation resources are allocated on a fully nonbypassable basis consistent with departing load provisions as determined by the commission, to all of the following:~~

~~(i) Bundled service customers of the electrical corporation.~~

~~(ii) Customers that purchase electricity through a direct transaction with other providers.~~

~~(iii) Customers of community choice aggregators.~~

~~(B) If the commission authorizes or orders an electrical corporation to obtain generation resources pursuant to subparagraph~~

~~(A), the commission shall ensure that those resources meet a system or local reliability need in a manner that benefits all customers of the electrical corporation. The commission shall allocate the costs of those generation resources to ratepayers in a manner that is fair and equitable to all customers, whether they receive electric service from the electrical corporation, a community choice aggregator, or an electric service provider.~~

~~(C) The resource adequacy benefits of generation resources acquired by an electrical corporation pursuant to subparagraph (A) shall be allocated to all customers who pay their net capacity costs. Net capacity costs shall be determined by subtracting the energy and ancillary services value of the resource from the total costs paid by the electrical corporation pursuant to a contract with a third party or the annual revenue requirement for the resource if the electrical corporation directly owns the resource. An energy auction shall not be required as a condition for applying this allocation, but may be allowed as a means to establish the energy and ancillary services value of the resource for purposes of determining the net costs of capacity to be recovered from customers pursuant to this paragraph, and the allocation of the net capacity costs of contracts with third parties shall be allowed for the terms of those contracts.~~

~~(D) It is the intent of the Legislature, in enacting this paragraph, to provide additional guidance to the commission with respect to the implementation of subdivision (g) of Section 380, as well as to ensure that the customers to whom the net costs and benefits of capacity are allocated are not required to pay for the cost of electricity they do not consume.~~

~~(d) (1) If the commission approves a centralized resource adequacy mechanism pursuant to subdivisions (h) and (i) of Section 380, upon the implementation of the centralized resource adequacy mechanism the requirements of paragraph (2) of subdivision (c) shall be suspended. If the commission later orders that electrical corporations cease procuring capacity through a centralized resource adequacy mechanism, the requirements of paragraph (2) of subdivision (c) shall again apply.~~

~~(2) If the use of a centralized resource adequacy mechanism is authorized by the commission and has been implemented as set forth in paragraph (1), the net capacity costs of generation resources that the commission determines are required to meet urgent system~~

~~or urgent local grid reliability needs, and that the commission authorizes to be procured outside of the Section 380 or Section 454.5 processes, shall be recovered according to the provisions of paragraph (2) of subdivision (c).~~

~~(3) Nothing in this subdivision supplants the resource adequacy requirements of Section 380 or the resource procurement procedures established in Section 454.5.~~

~~(e) The commission may report to the Legislature on the efficacy of authorizing individual retail end-use residential customers to enter into direct transactions, including appropriate consumer protections.~~

~~SEC. 5. Chapter 7.6 (commencing with Section 2831) is added to Part 2 of Division 1 of the Public Utilities Code, to read:~~

~~CHAPTER 7.6. SHARED RENEWABLE ENERGY SELF-GENERATION PROGRAM~~

~~2831. The Legislature finds and declares all of the following:~~

~~(a) The creation of renewable energy within California provides significant financial, health, environmental, and workforce benefits to the State of California.~~

~~(b) The California Solar Initiative has been extremely successful, resulting in over 140,000 residential and commercial onsite installations of solar energy systems. However, it cannot reach all residents and businesses that want to participate and is limited to solar energy. The Shared Renewable Energy Self-Generation Program seeks to build on this success by expanding access to renewable energy resources to all ratepayers that are currently unable to access the benefits of onsite generation, without shifting costs to nonparticipants.~~

~~(c) The Governor has proposed the Clean Energy Jobs Plan, calling for the development of 20,000 megawatts of generation from renewable energy resources by 2020. There is widespread interest from many large institutional customers, including schools, colleges, universities, local governments, businesses, and the military, for development of renewable generation facilities to serve more than 33 percent of their energy needs. For these reasons, the Legislature agrees that the Governor's Clean Energy Jobs Plan represents a desired policy direction for the state.~~

~~(d) Properly designed, shared renewable energy programs can provide access and cost savings to underserved communities, such as low- to moderate-income residents, and residential and commercial renters, without shifting costs to nonparticipants.~~

~~(e) Public institutions will benefit from the Shared Renewable Energy Self-Generation Program's enhanced flexibility to participate in shared renewable energy facilities. Electricity usage is one of the most significant cost pressures facing public institutions at a time when they have been forced to cut essential programs, increase classroom sizes, and lay off teachers. Schools may use the savings for restoring funds for salaries, facility maintenance, and other budgetary needs.~~

~~(f) Shared renewable energy self-generation creates jobs, reduces emissions of greenhouse gases, and promotes energy independence.~~

~~(g) Many large energy users in California have pursued onsite renewable energy generation, but cannot achieve their goals due to rooftop or land space limitations, or size limits on net metering. The enactment of this chapter will create a mechanism whereby institutional customers such as military installations, universities, and local governments, as well as commercial customers and groups of individuals, can efficiently invest in generating electricity from renewable generation.~~

~~(h) Therefore, it is the intent of the Legislature that this program be implemented in such a manner as to create a large, sustainable market for the purchase of an interest in offsite renewable generation, while fairly compensating electrical corporations for the services they provide.~~

~~(i) It is the further intent of the Legislature to preserve a thriving natural environment and to ensure that projects developed under the Shared Renewable Energy Self-Generation Program are subject to environmental protection best practices afforded under California law and policies.~~

~~2832. As used in this chapter, the following terms have the following meanings:~~

~~(a) "Benefiting account" means one or more electricity accounts designated to receive a bill credit pursuant to Section 2833 and mutually agreed upon by the facility provider and an electrical corporation.~~

~~(b) "Bill credit" means an amount of money credited each month, or in an otherwise applicable billing period, to one or more~~

~~benefiting accounts based on the amount of the electrical output of a shared renewable energy facility that is assigned to the account pursuant to the methodology described in Section 2833.~~

~~(c) "Default load aggregation point price" means a commission-determined day-ahead price for electricity.~~

~~(d) "Energy component" means the generation portion of a customer's otherwise applicable tariff and any other portion of the customer's charges that the commission determines may be appropriate to offset without resulting in a net cost shift to nonparticipants.~~

~~(e) "Interest" means a direct or indirect ownership, lease, subscription, or financing interest in a shared renewable energy facility that enables the participant to receive a bill credit for a retail account with the electrical corporation.~~

~~(f) "Local government" means a city, county, city and county, special district, school district, public water district, public irrigation district, county office of education, political subdivision, or other local governmental entity. For the purposes of this chapter, "water district" has the same meaning as defined in Section 20200 of the Water Code, and "irrigation district" means an entity formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code.~~

~~(g) "Participant" means a retail customer of an electrical corporation that owns, leases, finances, or subscribes to an interest in a shared renewable energy facility and who has designated at least one of its own retail accounts as a benefiting account to which the interest shall be attributed.~~

~~(h) "Participant account" means a retail customer account with an electrical corporation to which a participant's interest in a shared renewable energy facility shall be attributed.~~

~~(i) "Provider" means any entity whose purpose is to beneficially own or operate a shared renewable energy facility for the participants or owners of that facility, or to market an interest in the facility.~~

~~(j) "Program" means the Shared Renewable Energy Self-Generation Program established pursuant to this chapter.~~

~~(k) "Project" means the cumulative activities to build and make operational a shared renewable energy facility.~~

~~(*l*) "Renewable energy credit" has the same meaning as defined in Section 399.12.~~

~~(m) "Shared renewable energy facility" means a facility for the generation of electricity that meets all of the following requirements:~~

~~(1) Has a nameplate generating capacity of no more than 20 megawatts of alternating current.~~

~~(2) Is an eligible renewable energy resource pursuant to the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).~~

~~(3) Has its electrical output measured by a production meter owned by the electrical corporation, that meets the tariff requirements of the electrical corporation and the Independent System Operator, and that independently measures the electricity delivered to the grid by the facility.~~

~~(4) Is located within the service territory of a California electrical corporation.~~

~~(5) Has been interconnected with the electrical grid in compliance with the tariffs of the applicable interconnection authority.~~

~~(6) Is either the PVUSA facility, meaning the photovoltaic electricity generation facility selected by the City of Davis and located at 24662 County Road, Davis, California, or is a newly constructed renewable energy facility constructed pursuant to this chapter, beginning commercial operation on or after June 1, 2014.~~

~~(7) The provider has, where applicable, complied with all program rules and written notice procedures that may be required by the commission.~~

~~2833. (a) (1) A retail customer of an electrical corporation having 100,000 or more service connections within the state may acquire an interest in a shared renewable energy facility for the purpose of becoming a participant and shall designate one or more benefiting accounts to which the interest shall be attributed.~~

~~(2) To be eligible to be designated as a benefiting account, the account shall be for service to premises located within the geographical boundaries of the service territory of the electrical corporation containing the shared renewable energy facility.~~

~~(3) The participating customer's bill credit may be used to offset all or a portion of the energy component of that customer's electrical service, as provided in this chapter and in accordance with those rules that the commission may adopt.~~

~~(4) A participant shall not acquire an interest in a shared renewable energy facility that represents more than two megawatts of generating capacity or the equivalent amount, as denominated in kilowatthours of energy. This limitation does not apply to a federal, state, or local government, school, school district, county office of education, the California Community Colleges, the California State University, or the University of California.~~

~~(b) The electrical corporation shall assign a monthly bill credit equal to the class average retail generation rate for each kilowatthour of energy received to the benefiting account plus any differences between the time-of-day profile of the renewable resources for which the participating customer subscribes and the class average time-of-day profile. The bill credit shall be applied to the energy component of the benefiting account.~~

~~(c) (1) Any renewable energy credits associated with an interest shall be retired by either the provider or electrical corporation, as they may agree, on behalf of the participant or transferred to the Western Renewable Energy Generation Information System account of that participant, for the purpose of demonstrating the purchase of renewable energy. Those renewable energy credits shall not be further sold, transferred, or otherwise monetized by a party for any purpose. Renewable energy credits associated with electricity paid for by the electrical corporation shall be counted toward meeting that electrical corporation's renewables portfolio standard. For purposes of this subdivision, "renewable energy credit" and "renewables portfolio standard" have the same meanings as defined in Section 399.12.~~

~~(2) For energy that is unallocated to a benefiting account during the previous billing period, the recipient electrical corporation shall pay the provider the current default load aggregation point price plus the renewable energy credit value and receive any renewable energy credits associated with that energy.~~

~~(d) (1) A pilot program of 500 megawatts of alternating current rated nameplate generating capacity of shared renewable energy facilities shall be made available during the 18-month period beginning March 1, 2015, and ending July 1, 2016. Each electrical corporation's proportionate share of the program's total capacity shall be calculated based on the ratio of the electrical corporation's peak demand compared to the total statewide peak demand.~~

~~(2) On or before March 1, 2015, each electrical corporation shall submit a proposal to the commission for how to allocate the initial available capacity. Within 60 days of receipt of these proposals, the commission shall adopt rules for the allocation of the initial available capacity amongst the electrical corporations and to establish a transparent process for evaluating and ranking applications for shared renewable energy facility projects and awarding the initial capacity to those projects.~~

~~(3) Of the initial pilot program capacity:~~

~~(A) Twenty percent shall be reserved for projects of a size no greater than one megawatt of alternating current, constructed in areas previously identified by the California Environmental Protection Agency as the most impacted and disadvantaged communities for opportunities related to this chapter. These communities shall be identified as census tracts that are identified within the top 20 percent of results from the best available cumulative impact screening methodology by considering the following categories:~~

~~(i) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.~~

~~(ii) Areas with socioeconomic vulnerability.~~

~~(B) Twenty percent shall be reserved for initial subscription by residential customers.~~

~~(e) The commission shall determine the manner in which the capacity under the program shall be allocated and the contracting mechanisms between, and procedures regarding, providers and electrical corporations.~~

~~(f) (1) The electrical corporation shall ensure that no single entity or its affiliates or subsidiaries is awarded more than 20 percent of any single calendar year's total cumulative rated generating capacity made available pursuant to this program.~~

~~(2) The commission shall maintain a public database that includes all of the following:~~

~~(A) All projects that have been approved for participation in the pilot program, their size, and where the projects are connecting to the transmission or distribution system.~~

~~(B) The nameplate generating capacity of those projects located in environmental justice areas described in subparagraph (A) of paragraph (3) of subdivision (d).~~

(C) The proportion of shared renewable energy facilities subscribed to by residential customers.

(D) Any other data relative to the program that the commission considers suitable for disclosure to the public.

(g) (1) Once the initial 500 megawatts of cumulative rated generating capacity has been awarded for shared renewable energy facility projects, the commission shall evaluate the functioning of the program.

(2) By January 1, 2016, the commission shall conclude an evaluation of the program to date, to determine if the goals of the program are being met, including, but not limited to, the goals of increasing access to renewable power and ensuring nonparticipant ratepayer indifference.

(3) The commission may evaluate the program at any time, either on its own motion or upon the motion of an interested party, and may modify or adopt any rules it determines to be necessary or convenient to ensure that program goals can be met provided that the program modifications and rules do not result in a shifting of costs to nonparticipating ratepayers. The commission shall ensure that the charges and credits associated with this program shall be structured to ensure nonparticipating ratepayer indifference for the remaining bundled service, direct access, and community choice aggregation customers and that no costs are shifted from participating customers to nonparticipating ratepayers.

(4) An electrical corporation shall comply with the requirements applicable to protection of the right to commercial free speech described in Commission Decision 10-05-050 as applied to the development, sale of subscriptions, and operation of shared renewable energy facilities. Shared renewable energy facilities may file a complaint with the commission for violation of this paragraph.

(5) If requested by a city, county, or city and county, an electrical corporation shall annually provide the city, county, or city and county with the annual total generation of each shared renewable energy facility in that local jurisdiction and the annual aggregated total generation, by fuel type, allocated to benefiting accounts in that local jurisdiction from all shared renewable energy facilities, regardless of their location. The benefiting account data shall be aggregated in a manner determined by the commission to protect customer privacy and to provide a city, county, or city and

~~county with the information necessary to calculate greenhouse gas emissions from energy consumption within its jurisdiction supplied by shared renewable energy facilities. The commission may develop alternative methods to enable the sharing of annual total generation information.~~

~~(h) (1) The tariff applicable to a participant shall remain the same, with respect to rate structure, all retail rate components, and any monthly charges, to the charges that the participant would be assigned if the participant did not receive a bill credit.~~

~~(2) Prior to the sale or resale of an interest in a shared renewable energy facility, the provider or the participant, or both, shall provide a disclosure to the potential participant that, at a minimum, includes all of the following:~~

~~(A) A good faith estimate of the annual kilowatthours to be delivered by the shared renewable energy facility based on the size of the interest.~~

~~(B) A plain language explanation of the terms under which the bill credits will be calculated.~~

~~(C) A plain language explanation of the contract provisions regulating the disposition or transfer of the interest.~~

~~(D) A plain language explanation of the costs and benefits to the potential participant based on its current usage and applicable tariff, for the term of the proposed contract.~~

~~(3) The commission shall determine the manner in which customer accounts are to be credited for energy provided under the program, including, but not limited to, how production is counted and assigned, the entry and exits of accounts from the program, and the disposition of excess credits received.~~

~~(4) A provider shall execute all necessary interconnection agreements, participation, and surplus sale agreements with the electrical corporation and the Independent System Operator on a schedule required by those entities.~~

~~(5) Unless the electrical corporation will be registering renewable energy credits on behalf of the participant, the provider shall establish an account and register the shared renewable energy facility with the Western Renewable Energy Generation Information System or its successor.~~

~~(6) The provider's interconnection process and cost allocation for facilities built under this section shall be determined by~~

~~applicable rules for interconnection established by the commission and the Independent System Operator.~~

~~(7) The commission shall not regulate the prices paid by the participant for an interest in a shared renewable energy facility, but may enforce the required disclosures, and may establish rules applicable to providers to ensure consumer protection. Any interested person or corporation may file a complaint with the commission contending that a provider or electrical corporation is not complying with any requirement of this chapter and seek an order of the commission to enforce the requirements of this chapter and to take whatever steps are necessary to ensure consumer protection and compliance with the requirements of this chapter.~~

~~(i) (1) The commission shall determine the manner in which customers are billed and receive credits under the program. The electrical corporation may petition the commission to incorporate in its bill those charges by the provider to participants, provided that the electrical corporation recovers all incremental costs of providing that service and provided that the provider elects to use this service.~~

~~(2) Unsubscribed delivered electricity shall be sold to the electrical corporation at the default load aggregation point price plus the renewable energy credit value. The electrical corporation shall receive credit under the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1) for all delivered electricity purchased pursuant to this subparagraph, without the need for further qualifying action.~~

~~(3) The electrical corporation shall charge the participant for service under each benefiting account at the electrical corporation's otherwise applicable tariff.~~

~~(4) The electrical corporation shall provide the participant with a bill credit based on the allocated share of delivered electricity and shall collect revenue from the participant commensurate with the participant's contract with the provider.~~

~~(5) The electrical corporation, within 60 days, shall remit to the participant organization the revenue collected from participants through billings pursuant to paragraph (4).~~

~~(6) Nothing in paragraphs (2), (3), (4), and (5) requires a particular bill format or the inclusion of any specific separate billing line items.~~

~~(7) The commission shall, by January 1, 2015, determine whether customers participating in direct transactions may receive bill credits equivalent to what would be provided to bundled electric service customers of a participating electrical corporation pursuant to this chapter, and, if so, shall implement rules and procedures for enabling those transactions. These particular transactions may include those with an electric service provider that does not provide distribution services and, customers receiving electric service through a community choice aggregation program.~~

~~(j) (1) To ensure the maximum systemic benefit from shared renewable energy facilities under this chapter, electrical corporations shall provide to the commission, prior to the release of capacity, maps indicating locations in their service territory where the addition of capacity would reduce line loss, lower transmission capacity constraints, and defer or avoid transmission and distribution network upgrades and construction. The commission may adopt guidance in determining criteria for the awarding of capacity in a manner as to reflect these benefits. The commission shall also ensure that projects being awarded capacity under the program are subject to protections consistent with those afforded under the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1).~~

~~(2) (A) The commission shall ensure full and timely recovery of all reasonable costs incurred by an electrical corporation to implement the program, including reasonable expenses for changes to its billing system and handling of collections, and shall determine the appropriate method of allocating those costs. The commission shall approve a memorandum account to track billing system and implementation costs, as well as revenue from provider project applications, and may not direct an electrical corporation to conduct any billing system work prior to approval of the memorandum account.~~

~~(B) Participating customers shall pay the administrative costs of the electrical corporation to implement the shared renewable self-generation program consistent with other existing similar voluntary optional rate schedules.~~

~~(3) In calculating its procurement requirements to meet the requirements of the California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11) of Chapter~~

~~2.3 of Part 1), an electrical corporation may exclude from total retail sales the kilowatthours generated by a shared renewable energy facility commencing with the point in time at which the facility achieves commercial operation.~~

~~(4) The local and system resource adequacy value attributable to a shared renewable energy facility, as determined by the commission pursuant to Section 380, shall be assigned to the electrical corporation to which the facility is interconnected.~~

~~2834. This chapter shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

~~SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

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